

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ARTHUR A. PHILLIPS,
Plaintiff

v.

EMERSON ELECTRIC CO. and
THE HOME DEPOT USA, INC.,
Defendants

Civil No. 02-179-P-C

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge having filed with the Court on May 5, 2003, with copies to counsel, her Recommended Decision on Defendants' Motion for Summary Judgment (Docket Item No. 26); and Defendants having filed their objection thereto on May 15, 2003, (Docket Item No. 29), to which objection Plaintiff filed his response on May 22, 2003 (Docket Item No. 30); and this Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; and this Court having made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision, and concurring with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, it is **ORDERED** as follows:

- (1) Defendants' objection is hereby **DENIED**.
- (2) The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.
- (3) Defendants' incorporated motion to strike Mr. Goulet's affidavit and attached exhibits, which were submitted by Plaintiff in opposition to Defendants' summary judgment motion is hereby **GRANTED**.
- (4) Defendants' motion for summary judgment is hereby **DENIED**.
- (5) Defendants' request for a *Daubert* hearing in respect to the expert testimony of Mr. Goulet at this summary judgment stage of the case

is hereby **DENIED**.

GENE CARTER
Senior United States District Judge

Dated at Portland, Maine this 29th day of May, 2003.

Plaintiff

ARTHUR PHILLIPS

represented by **JOSEPH H. GROFF, III**
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V.

Defendant

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